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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,938	11/25/2003	L. Marie Krey	RLK-MWLO-0303	9940

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EXAMINER

PICKETT, JOHN G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/721,938	Applicant(s) KREY, L. MARIE	
	Examiner Gregory Pickett	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/25/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 2, 4-6, 8, 9, and 13 are objected to because of the following minor informalities: The preambles of the claims use inconsistent terminology.

Claim 2 recites the device of claim 1, whereas claim 1 sets forth a container.

Claims 4 and 5 recite the device of claim 3, whereas claim 3 sets forth a container.

Claim 6 recites the apparatus of claim 3, whereas claim 3 sets forth a container.

Claims 8 and 9 recite the device of claim 7, whereas claim 7 sets forth a container.

Claim 13 recites the apparatus of claim 10, whereas claim 10 sets forth a container.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the first compartment, the second compartment, or the third compartment" in line 2. There is insufficient antecedent basis for these limitations in the claim.

Claim 11 recites the limitation " the second chamber" in line 1. There is insufficient antecedent basis for these limitations in the claim.

Claim 13 recites the limitation " the second compartment, or the third compartment " in line 2. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrow (US 5,988,386; provided by applicant).

Claim 1: Morrow discloses a container **14** (see Figure 7) for multiple catamenial related products **60 & 78**. Morrow anticipates a waterproof container (Col. 5, lines 11-12). Morrow anticipates crush resistance (Col. 5, lines 21-24).

Claim 2: Morrow is fully capable of receiving an unspecified portable member (e.g. a wrap-around, removable pocket clip similar to those used for a pen). It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claims 3 and 4: Morrow discloses a container **14** (see Figure 7) for multiple catamenial related products **60 & 78**. Morrow discloses a plurality of chambers **36A & 36B**. Morrow anticipates a waterproof container (Col. 5, lines 11-12). Morrow anticipates crush resistance (Col. 5, lines 21-24).

Claim 5: Morrow discloses receptive member **48**, which is fully capable of receiving an unspecified portable member (e.g. a spring clip). It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claim 6: Morrow discloses a prepackaged wipe **60** in packet **62**.

Claim 7: Morrow discloses a container **14** (see Figure 7) for multiple catamenial related products **60 & 78**. Morrow discloses a plurality of chambers **36A & 36B** capable

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of receiving products **60 & 78**. Morrow anticipates a waterproof container (Col. 5, lines 11-12). Morrow anticipates crush resistance (Col. 5, lines 21-24). Morrow discloses receptive member **48**, which is fully capable of receiving an unspecified portable member (e.g. a spring clamp). It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claims 8 and 9: Morrow discloses a smooth outer surface that is fully capable of receiving either printing or adhesive stickers. It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claim 10: Morrow discloses a container **10** with a body **12/14** having a first end **12**, a second end **14**, first end cap **31**, second end cap **29**, and an enclosed end (end **31** of portion **14**, see Figure 7) separating the body into a first compartment **20** and a first chamber **36**.

Claim 11: Morrow anticipates the chamber **36** divided into a second chamber **36A** and a third chamber **36B**.

Claim 12: Morrow discloses receptive member **48**.

Claim 13: Morrow discloses a prepackaged wipe **60** in packet **62**.


Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Greg Pickett
Examiner
1 March 2006


Mickey Yu
Supervisory Patent Examiner
Group 3700